

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 2:00 p.m.
Friday, February 8, 2008
Best Western Inn Suites
1450 Castle Dome Avenue
Yuma, Arizona 85365.

PRESENT: (Commission)

(Director's Staff)

Chairman William H. McLean
Commissioner Robert D. Hernbrode
Commissioner Jennifer L. Martin
Commissioner Robert R. Woodhouse

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Commissioner Golightly was not present at this meeting.

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Pat Barber, Law Enforcement Branch Chief
Gene Elms, Wildlife Law Enforcement Project Coordinator

Mr. Elms presented the following cases to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §15-714, §17-238, §17-314, §17-340, §17-362 and/or §17-363 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. All of these exhibits may be considered by the Commission in order to make a final determination. Each of the following individuals were legally noticed for this hearing.

| <u>Name</u> | <u>Conviction</u> |
|----------------------|--|
| Stapleton, Daniel S. | Count A: Take wildlife during closed season (Bighorn Sheep ewes). Count B: Waste edible game meat (Bighorn Sheep ewes). Count C: Possess unlawfully taken wildlife (Bighorn Sheep ewes). |
| DeYoung, Nathan L. | Count A: Take wildlife during closed season (Bighorn Sheep ewes). Count B: Waste edible game meat (Bighorn Sheep ewes). Count C: Possess unlawfully taken wildlife (Bighorn Sheep ewes). |
| Cluff, Evan J. | Count A: Place bait to attract bears. Count B: Take bear by an unlawful method. |

Roll call was taken and the following were present: Daniel Stapleton and Evan Cluff.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment.

The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Hernbrode moved and Martin seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous
4 to 0
Golightly absent

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The cases of Stapleton and DeYoung were related.

Daniel S. Stapleton

Stapleton was found guilty by the Bullhead Justice Court for: Count A: Take wildlife during closed season (Bighorn Sheep ewes); Count B: Waste edible game meat (Bighorn Sheep ewes); Count C: Possess unlawfully taken wildlife (Bighorn Sheep ewes); and sentenced Counts A, B, and C: Ten (10) days in jail; \$550.00 in jail fees; \$2,500.00 in fines; \$500.00 in restitution to the Arizona Game and Fish Department; and twelve (12) months of unsupervised probation.

Stapleton was present and addressed the Commission stating that he was new at hunting and that he had to go to jail and pay other fines and felt that the civil assessment of one third of \$16,000 was ludicrous.

Motion: Hernbrode moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DANIEL S. STAPELETON TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DANIEL S. STAPLETON TO COLLECT THE AMOUNT OF \$5,333.33 FOR THE LOSS OF TWO (2) BIGHORN SHEEP EWES; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

4 to 0
Golightly absent

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Evan J. Cluff

Cluff was found guilty by the Round Valley Justice Court for: Count A: Place bait to attract bears; and Count B: Take bear by an unlawful method; and sentenced Count A: Fined \$208.00 and Count B: Fined \$706.00.

Cluff was present and addressed the Commission stating that he had never done anything like this before and apologized for his actions.

Motion: Martin moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF EVAN J. CLUFF TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST EVAN J. CLUFF TO COLLECT THE AMOUNT OF \$1500.00 FOR THE LOSS OF ONE (1) BLACK BEAR; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0
Golightly absent

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Nathan Lyle DeYoung

DeYoung was found guilty by the Bullhead Justice Court for: Count A: Take wildlife during closed season (Bighorn Sheep ewes); Count B: Waste edible game meat (Bighorn Sheep ewes); Count C: Possess unlawfully taken wildlife (Bighorn Sheep ewes); and sentenced Counts A, B, and C: Ninety (90) days in jail – sixty (60) days suspended; Will pay \$1,650.00 in jail fees; \$500.00 in attorney fees; \$500.00 in fines; Forfeiture of weapon; and twelve (12) months of unsupervised probation.

Mr. Elms reported that DeYoung has filed a motion for a vacated verdict and is planning an appeal depending on the outcome.

Chairman McLean confirmed with Mr. Elms that DeYoung did not request a stay of these proceedings.

DeYoung was not present.

Motion: Hernbrode moved THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF NATHAN LYLE DEYOUNG TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST NATHAN LYLE DEYOUNG TO COLLECT THE AMOUNT OF \$5,333.33 FOR THE LOSS OF TWO (2) BIGHORN SHEEP EWES; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Motion failed for lack of second.

Motion: Martin moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF NATHAN LYLE DEYOUNG TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF TEN (10) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST NATHAN LYLE DEYOUNG TO COLLECT THE AMOUNT OF \$5,333.33 FOR THE LOSS OF TWO (2) BIGHORN SHEEP EWES; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Chairman McLean requested comment from the attorneys on the Commission's authority to revoke licenses to run consecutively verses concurrently.

Mr. Odenkirk stated that historically the Commission has revoked for concurrent periods, so this would be a change from Commission practice.

Ms. Cutts requested that she provide counsel in Executive Session.

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Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

Motion: Martin moved and Hernbrode seconded THAT THE COMMISSION VOTE TO GO INTO EXECUTIVE SESSION.

Vote: Unanimous
4 to 0
Golightly absent

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Commissioner Martin withdrew her motion.

Commissioner Woodhouse withdrew his second.

Motion: Hernbrode moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF NATHAN LYLE DEYOUNG TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST NATHAN LYLE DEYOUNG TO COLLECT THE AMOUNT OF \$5,333.33 FOR THE LOSS OF TWO (2) BIGHORN SHEEP EWES; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0
Golightly absent

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These hearings concluded at 2:52 p.m.

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